

Remarks

Claims 1-10, 17-24, 47, 65, 82, 103, 122, 143, 159, 176, 199, and 201-280 were pending. Claims 47, 122, 143, 159, and 201 were previously withdrawn from consideration following election in response to a Restriction Requirement made final by the Examiner. By this Amendment, claims 1, 24, 65, 82, 103, and 176 are amended; claims 17, 199, 215, 228, 244, 258, 264, 265, 267, and 277-280 are canceled without prejudice or disclaimer; and no new claims are added. No new matter is introduced.

Claims 1, 24, 65, 82, and 103 are currently amended to incorporate the length limitations of claims 17, 215, 228, 244, and 258, respectively. The Examiner previously indicated that all these claims are allowed.

Claim 176 is currently amended, inter alia, to incorporate the specific sequence limitations of claim 279.

Prior Office Action

Applicant gratefully acknowledges the Examiner's indication that claims 1-24, 65, 82, 103, and 202-263 are allowed. Applicant also gratefully acknowledges the Examiner's express withdrawal of all prior claim objections and claim rejections under 35 U.S.C. § 112, first and second paragraph.

Information Disclosure Statements

Applicant acknowledges that the Examiner has indicated he has now considered the art cited in the Information Disclosure Statement (IDS) originally received by the Patent Office on January 16, 2001. Applicant further acknowledges that the Examiner has indicated he has considered art cited in the IDS received by the Patent Office on December 15, 2003.

Applicant wishes to call to the attention of the Examiner the existence of another IDS received by the Patent Office on January 26, 2004.

New Rejection Under 35 U.S.C. § 102

The Examiner indicated claims 176, 199, and 264-278 are rejected under 35 U.S.C. § 102(b) for alleged anticipation by Krieg et al. (WO 96/02555). More specifically, the Examiner asserts that it is inherent that the methods taught by Krieg et al. also produce the effects recited by the instantly claimed methods. The Examiner goes on to describe disclosure by Krieg et al. of ODN 1585 having the sequence 5'-GGGGTCAACGTTTCAGGGGGG-3'. For reasons set forth below, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 176, 199, and 264-278 under 35 U.S.C. § 102(b).

Applicant currently amends claim 176 to be directed to an in vivo method involving administration of oligonucleotide to a subject in need of IFN- α treatment and to incorporate limitations of claim 279, which recites specific oligonucleotide sequences which are not disclosed in Krieg et al. Claim 176 as currently amended is not anticipated by Krieg et al. at least because Krieg et al. does not disclose the instantly claimed specific sequences represented by SEQ ID NOs 7, 9, 11, 13, 24, 25, 30, 33, 36, and 37.

Rejected claims 199, 264, 265, 267, 277, and 278 are canceled by this Amendment, rendering moot their rejection. Claims 266 and 268-276 depend from claim 176.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 176, 199, and 264-278 under 35 U.S.C. § 102(b).

New Rejections Under Double Patenting

The Examiner indicated that claims 176, 199, 264, 266, and 268-280 are *provisionally* rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 6, 11-13, 16, and 18 of co-pending Application No. 10/017,995. More specifically, the Examiner asserts that the method of inhibiting angiogenesis in a subject in the co-pending application would inherently produce the same effects as the methods as claimed by the presently claimed invention.

In response, Applicant respectfully traverses the *provisional* rejection of claims 176, 199, 264, 266, and 268-280 under the judicially created doctrine of obviousness-type double patenting because the rejection is merely provisional at this time.

The Examiner also indicated that claims 176 and 265-278 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Pat. No. 6,429,199 in view of Siegal et al. (*Science* (1999) 184:1835-7). More specifically, the Examiner asserts that U.S. Pat. No. 6,429,199 specifically teaches that a dendritic cell includes immature dendritic cells, mature dendritic cells as well as precursor or progenitor dendritic cells and that Siegal et al. teaches that CD4+CD11c- type 2 dendritic cell precursors (pDC2s) are the principle type I interferon-producing cells in human blood. For reasons set forth below, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 176 and 265-278 under the judicially created doctrine of obviousness-type double patenting.

As previously noted, claim 176 is currently amended and claims 265, 267, 277, and 278 are canceled by this Amendment. Applicant respectfully submits that claim 176 as currently amended is not obvious over claims 1-2 of U.S. Pat. No. 6,429,199 in view of Siegal et al. at least because neither reference teaches or suggests the instantly claimed specific sequences represented by SEQ ID NOs 7, 9, 11, 13, 24, 25, 30, 33, 36, and 37.

Claims 266 and 268-276 depend from claim 176. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 176 and 265-278 under the judicially created doctrine of obviousness-type double patenting.

Summary

Claims 1, 24, 65, 82, 103, and 176 are amended and claims 17, 199, 215, 228, 244, 258, 264, 265, 267, and 277-280 are canceled without prejudice or disclaimer by this Amendment. Claims 1-10, 18-24, 65, 82, 103, 176, 202-214, 216-227, 229-243, 245-257, 259-263, 266, and 268-276 are pending and currently under examination. The Examiner previously indicated that claims 1-24, 65, 82, 103, and 202-263 are allowed. Applicant believes the claims currently under examination are in condition for allowance. An early and favorable response is earnestly solicited.

Respectfully submitted,



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